IN THE HIGH COURT OF JUDICATURE AT BOBBY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4244 OF 2004

Adhistaraj @ Raja Silvaraj Nadar .. Applicant.

V/s.

The State of Maharashtra ..Respondent.

Shri Prakash Shetty for Applicant.
Shri V.B. Konde -Deshmukh, APP for Respondent.

CORAM : A.M.KHANWILKAR, J.
DATED : 18.10.2004

PC :-

. Heard the learned counsel for the parties. Perused the record.

. The applicant has been arrested in connection with C.R. No. 129/2003 registered at Nehru Nagar Police Station for offence punishable under sections 395, 397 of IPC and section 25 of the Arms Act. According to the applicant, the identification parade in which the applicant is stated to have been identified is not in confirmity with the guidelines contained in the criminal manual. It is next contended that panch witness is common in the present case as well as in some other case against the

applicant and any such evidence will have to be discarded. It is then contended, that there is unexplained delay in conducting the identification parade. Moreover, no recovery has been made from the present applicant. On this basis, the learned counsel for the applicant contends that the applicant deserves to be enlarged on bail. On the other hand, the learned APP has invited my attention to the relevant pancha's statement to point out that the necessary formalities as required under the provisions of criminal manual have been complied with in the present case. Besides, it is contended that the question of delay in identification at best will be relevant at the trial and cannot be the basis for grant of bail to the present applicant, who is involved in 4 other offences of similar nature.

. Having regard to the rival submissions and after going through the record, I am in agreement with the reasons recorded by the court below in rejecting the bail application. In so far as the grievance that identification parade is not in confirmity with the criminal manual is concerned, the same is devoid of merit. On reading the panchanama and relevant statement, it is more than clear that the prosecution

witness Bharat Shah has identified the applicant and proper procedure has been followed. The argument on behalf of the applicant is that there is non compliance of regulation -X (I) for procedure to be followed in identification parade as contained in the criminal manual. It is stated that the said witness after identifying the applicant ought to have gone to a different room and not mingled with the remainig identifying witness. Assuming that the applicant is right in pointing out that the prosecution witness, after identifying the applicant, returned to the room where other identifying witness were sitting that does not mean that the identification done by Bharat Shah can be discarded. In other words, I see no reason to accept the grievance made on behalf of the applicant that the identification parade was not in confirmity with provisions contained in the criminal manual. The next grievance that the same person has acted as panch witness in two different cases pertaining to the applicant also by itself cannot be a ground for releasing the applicant on bail. On the other hand from the record it is seen that the role of the applicant is specifically mentioned in the FIR as registered as well as the subsequent statements recorded that the applicant has been identified by the

prosecution witnesses. Besides, four criminal cases of similar nature are pending against the applicant. Taking over all view of the matter, no case for granting bail. Hence, rejected.

. Even though this application is dismissed, the trial court is directed to expedite the hearing of the trial. The case may be referred to the Fast Track Court for ensuring early disposal. The applicant shall extend full co-operation for early disposal of the trial. If the applicant is found responsible for delay in the trial that fact be recorded in the Rozanama.

. Ordered accordingly.

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